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Liberty

NOT THE DAUGHTER BUT THE MOTHER OF ORDER — PROUDHON

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"For always in thine eyes, O Liberty!
Shines that high light whereby the world is saved;
And though thou slay us, we will trust in thee."

JOHN HAY.

On Picket Duty.

"The Rag-Picker of Paris" will be continued in the next issue of Liberty, the omission from this issue of the usual instalment being unavoidable.

Referring to men's instinctive aversion to change, Arnold Toynbee aptly observed: "It is well that the beaten ways of the world get trodden into mud; we are thus forced to seek new paths and pick out new lines of life."

"Thinkers," says Schopenhauer, "and especially men of true genius, without any exception, find noise insupportable. This is no question of habit. I have ever been of the opinion that the amount of noise one can support with equanimity is in inverse proportion to his mental powers. This may be taken as a measure of intellect generally." I have noticed that the noisiest reformers are invariably also the most empty-headed.

A man in Maryland has been punished at the whipping post for beating his wife. He was lashed on the bare back with a leather thong until he was black and blue. And now it is to be supposed, of course, that he and his wife will "live happily ever afterward." If ever again their love threatens to desert them, the memory of that whipping post will arise and kindle their flame afresh. Poor little Cupid! What queer ways people do take to control him!

Because Mr. Pentecost declines to dogmatize about religion and honestly confesses that he knows nothing, the hypocrite George who claims God as a single-tax man, says that he does not think Mr. Pentecost "is in the frame of mind or has sufficiently considered such matters to publicly pass upon them." While intelligent men are coming to the conclusion that George is a traitor, he is evidently making up his mind that the respect of the wise is of less advantage than the admiration of the fools and the goodwill of the powerful.

At the conclusion of a reply to an attack by George, Mr. Pentecost, after convicting the former of unfairness, hypocrisy, and demagogism, says: "I have none but the kindest of feelings for Mr. George, but it would be inexcusable hypocrisy for me to conceal that I have not the same lofty regard for his personal character nor the same confidence in him as a social regenerator that I had until quite recently." This is rather mild, but it is a step in the right direction. I hope the kind feelings will at no distant day give place to unqualified disgust.

State Socialist critics deride, not being able to comprehend, Liberty's logic in associating the idea of free competition with the principle of coöperation. They do not know, in the first place, that competition, when free, is but an indirect form of coöperation, as Ruskin and Andrews have admirably shown; and, in the next place, they cannot distinguish between a society in which men freely organize formal coöperative associations for whatever objects they may wish, while retaining the liberty of separate action in all other things, and a society of slaves who are forbidden by majority-made law to enter into any sort of competition with one another.

A woman in Chicago, city of easy divorces, charged her husband with a revolting crime, of which he was convicted. When he found that there was no escape from the penalty, he attempted to kill himself, and almost succeeded. Then she became penitent and confessed that she had falsely accused him in order that she might get a divorce. Even Chicago courts offered her no other escape from the bonds of which she had grown tired. And yet marriage is a holy thing, the bond that holds society together, that can't be loosened lest morals be made loose too. But it doesn't appear to have had a very saving influence in this woman's case.

T. L. M'Cready expresses his "hearty sympathy" with certain declarations of the Chicago "Mutual Bank Propaganda," and thinks that "the assumption, by a little body of politicians, of the authority to regulate the issue of money . . . . is about as amazing a piece of impudence as can be found on earth today." But he does not conceal that in his opinion some of the ideas of the "Mutual Bank Propaganda" about finance are "altogether wrong." As Mr. M'Cready has shown that, when he has something to say, he can say it very clearly and ably, we who believe in free money and share the financial opinions of the Chicago association would be extremely gratified to learn what his ideas about finance are and wherein, and why, he differs from us.

Correspondents of various reform papers have been censuring lately the believers in "voluntary coöperation without compulsory government" for adhering to the "misleading" name of Anarchism, which to the general public signifies nothing but disorder. But our friends should remember that we do not address ourselves to the general public, but to the most advanced and intelligent portions of the community, who hardly need to be told that, outside of the insane asylums, it is impossible to imagine a movement in favor of restoring the reign of brute force. That Anarchism is an appropriate scientific description of our end is conclusively shown by the fact that sociologists like Spencer, Ward, and Thompson choose it to describe their ideal of the future society.

If the reader is as delighted with the beautiful paragraphs on morality and Anarchism appearing in this issue and credited to H. Brewester as I am and thirsts for more of this kind of reading, he will do well to hasten to procure a copy of "The Theories of Law and of Anarchy: a Midnight Debate," a little book recently published in London. It is a remarkable volume, and my discovery of it was as unexpected as it was welcome. The author discusses Communistic Anarchism with much sympathy and fairness, but declines to admit the desirability and wisdom of making it the exclusive form of social organization. In the interest of individuality, he insists on the greatest possible variety in the modes of life and conduct in the future state of liberty.

In the "Indiana Tribune" Mr. Phil. Rappaport recently said of the "Twentieth Century" that it was decidedly leaning towards State Socialism. However true this may have been of the early numbers of Mr. Pentecost's paper, it is true no longer. With the association of Mr. M'Cready in the editorship, the "Twentieth Century" was unequivocally pledged to the cause of liberty. Both Georgeism and State Socialism were laid on the shelf, and now, to make a sure thing doubly sure, Mr. Pentecost, as will be seen by the extract from his latest address published elsewhere, has defined his position on the land question in the distinctively Anarchistic sense. All this is of course very gratifying to Liberty, and furnishes another instance of the truth of the observation in Faust that a good man, grope in the dark as he may, is sure to reach the right path at last.

The Senate Committee on Indian Affairs who have been investigating Alaska have learned that in Sitka, a town of a thousand inhabitants, Indians and whites, and including many "tough" representatives of both races, nobody owns any land in fee simple. A man simply builds his house on the best unoccupied lot he can find, and lives there as long as he likes. If he wants to move and can find anyone who likes his place, he gives a bill of sale for his houses and improvements, moves out, and the other man moves in. And they respect one another's rights just as much as if there were a file of deeds going clear back to Adam. They are prosperous and happy and well-behaved. The Senate Committee on Indian Affairs, and all the good people who are accustomed to sneer at the possibility of civilized men living in that way, are recommended to think about this case.

Pentecostal Inspiration.

[Twentieth Century.]

I have been studying the social problem for years. It has been growing clearer and clearer to me all along. I have been searching for the root of the trouble. I have been hunting for the truth that can be put in few words, and that everybody can be made to understand at once. I believe I have found the root of the trouble.

It is not the private ownership of *land*.

It is the ownership (either public or private) of *vacant* land.

I think I have found the remedy.

It is not the *common ownership* of land.

It is not the abolition of private property in *land*.

It is not the Single-tax.

It is the abolition of the ownership or control of *vacant* land.

Vacant land must be unconditionally free for use by anybody who wished to use it.

This, I believe, is the key that will unlock the next door that should be opened in the Palace of liberty.

The New Philosophy.

[H. Brewester.]

Anarchism attempts to meet the demand expressed in this phrase of Emerson: "The philosophy we want is one of mobility and fluxion."

Intellectually Anarchists remain in presence of separate and irreductable truths; the great synthesis is denied, and with it monotheism.

Morally they must content themselves with the various injunctions of wisdom and with distinct, independent ideas. Something beyond them is indeed recognized; but, whereas we were accustomed to place it in the obligatory character of certain prescriptions, we are now told to understand it as a perpetual warning against all dogmatism.

Men who feel thus will naturally be out of harmony with the main principles of our government, which suppose one supreme power, be it the will of the sovereign or that of the majority. And what is more, the very way in which, so to speak, the bricks are laid together from one end to another of the social fabric will offend their sense of combination.

They are not exclusive and partial enough in their ideas to accept the creed of any political party. The same immaterialism, the same sense of the great value of the silent interval, that prevents them from summing up divers truths into one supreme one, runs all through their temperament and debars them from that feeling of complete reality inseparable from one path, which is the craftsman's strength. Their nature is repugnant to classes as it is to dogmas.

FREE POLITICAL INSTITUTIONS:

THEIR NATURE, ESSENCE, AND MAINTENANCE.

AN ABRIDGEMENT AND REARRANGEMENT OF

Lysander Spooner's "Trial by Jury."

Edited by VICTOR YARROS.

Continued from No. 149.

III.

TRIAL BY JURY AS DEFINED BY MAGNA CARTA.—AUTHORITY OF MAGNA CARTA.

For more than six hundred years—that is, since Magna Carta in 1215—there has been no clearer principle of English or American constitutional law than that in criminal cases it is not only the right and duty of juries to judge what are the facts, what is the law, and what was the moral intent of the accused, but that it is also their right and their primary and paramount duty to judge of the justice of the law, and to hold all laws invalid that are in their opinion unjust or oppressive, and all persons guiltless in violating or resisting the execution of such laws.

Probably no political compact between king and people was ever entered into in a manner to settle more authoritatively the fundamental law of a nation than was Magna Carta. Probably no people were ever more united and resolute in demanding from their king a definite and unambiguous acknowledgment of their rights and liberties than were the English at that time. Probably no king was ever more completely stripped of all power to maintain his throne and at the same time resist the demands of his people than was John on the 15th day of June, 1215. Probably no king ever consented more deliberately or explicitly to hold his throne subject to specific and enumerated limitations upon his power than did John when he put his seal to the Great Charter of the liberties of England. And if any political compact between king and people was ever valid to settle the liberties of the people or to limit the power of the crown, that compact is now to be found in Magna Carta.

To give all the evidence of the authority of Magna Carta, it would be necessary to give the constitutional history of England since the year 1215. The history would show that Magna Carta, although continually violated and evaded, was still acknowledged as law by the government, and was held up by the people as the great standard and proof of their rights and liberties. It would show that the judicial tribunals, whenever it suited their purposes to do so, were in the habit of referring to Magna Carta as authority. And, what is equally to the point, it would show that these same tribunals, the mere tools of kings and parliaments, would resort to the same artifices of assumption, precedent, construction, and false interpretation to evade the requirements of Magna Carta, and to emasculate it of all its power for the preservation of liberty, that are resorted to by American courts to accomplish the same work on our American constitutions.

I take it for granted, therefore, that even if the authority of Magna Carta had rested simply upon its character as a compact between king and people, it would have been forever binding upon the king in his legislative, judicial, and executive character; and that there was no constitutional possibility of his escaping from its restraints, unless the people themselves should freely discharge him from them.

But the authority of Magna Carta does not rest, either wholly or mainly, upon its character as a compact. For centuries before the charter was granted, its main principles constituted "the law of the land," the fundamental and constitutional law of the realm, which the kings were sworn to maintain. And the principal benefit of the charter was that it contained a written description and acknowledgment, by the king himself, of what the constitutional law of the kingdom was which his coronation oath bound him to observe.

Previous to Magna Carta this constitutional law rested mainly in precedents, customs, and memories of the people. And if the king could but make one innovation upon this law without arousing resistance and being compelled to retreat from his usurpation, he would cite that innovation as a precedent for another act of the same kind; next, assert a custom; and finally raise a controversy as to what the law of the land really was. The great object of the barons and people in demanding from the king a written description and acknowledgment of the law of the land was to put an end to all disputes of this kind, and to put it out of the power of the king to plead any misunderstanding of the constitutional law of the kingdom. And the charter no doubt accomplished very much in this way. After Magna Carta it required much more audacity, cunning, or strength on the part of the king than it had before to invade the people's liberties with impunity. Still, Magna Carta, like all other written constitutions, proved inadequate to the full accomplishment of its purpose; for when did a parchment ever have power to restrain a government that had either cunning to evade its requirements or strength to overcome those who attempted its defence? The work of usurpation, therefore, though seriously checked, still went on to a great extent after Magna Carta. Innovations upon the law of the land were still made by the government. One innovation was cited as a precedent; precedents made customs; and customs became laws so far as practice was concerned; until the government, composed of the king, the high functionaries of the church, the nobility, a House of Commons representing the "forty shilling freeholders," and a dependent and servile judiciary, all acting in conspiracy against the mass of the people, became practically absolute, as it is at this day.

In order to judge of the object and meaning of that chapter of Magna Carta which secures the trial by jury, it is to be borne in mind that at the time of Magna Carta the king was, with immaterial exceptions, constitutionally the entire government, the sole legislative, judicial, and executive power of the nation. The executive and judicial officers were merely his servants appointed by him and removable at his pleasure. Judges were abject servants of the king. Parliament, so far as there was a parliament, was a mere council of the king. It assembled only at the pleasure of the king, sat only during his pleasure, and had no power beyond that of simply advising the king. There was no House of Commons at that time, and the people had no right to be heard, unless as petitioners.

The king was, therefore, constitutionally the government, and the only legal limitation upon his power seems to have been simply the common law, usually called "the law of the land," which he was bound by oath to maintain. This law of the land seems not to have been regarded at all by many of the kings, except so far as they found it convenient to do so or were constrained to observe it by the fear of arousing resistance. But as all people are slow in making resistance, oppression and usurpation often reached a great height; and in the case of John they had become so intolerable as to enlist the nation almost universally against him, and he was reduced to the necessity of complying with any terms the barons saw fit to dictate to him.

It was under these circumstances that the Great Charter of English Liberties was granted. The barons of England, sustained by the common people, having the king in their power, compelled him at the price of his throne to pledge himself that he would punish no freeman for a violation of any of his laws except with the consent of his peers—that is, the equals—of the accused.

The question here arises whether the barons and people intended that those peers, the jury, should be mere puppets in the hands of the king, exercising no opinion of their own as to the intrinsic merits of the accusations they should try or the justice of the laws they should be called on to enforce; whether those victorious barons, when they had their tyrant king at their feet, gave back to him his throne with full power to enact any tyrannical laws he might please, reserving only to a jury the contemptible and servile privilege of ascertaining the simple fact whether those laws had been transgressed? Was this the only restraint which they, when they had the power, placed upon the tyranny of a king whose oppressions they had risen in arms to resist? Was it to obtain such a charter as that that the whole nation had united, as it were, like one man, against their king? Was it on such a charter that they intended to rely for all future time for the security of their liberties? No. They were engaged in no such senseless work as that. On the contrary, when they required him to renounce forever the power to punish any freeman except by the consent of his peers, they intended those peers should judge of and try the whole case on its merits, independently of all arbitrary legislation or judicial authority on the part of the king. In this way they took the liberties of each individual entirely out of the hands of the king, and out of the power of his laws, and placed them in the keeping of the people themselves. And this it was that made the trial by jury the palladium of their liberties.

The trial by jury, be it observed, was the only real barrier interposed by them against absolute despotism. Could this trial, then, have been such an entire farce as it necessarily must have been, if the jury had had no power to judge of the justice of the laws the people were required to obey? Did it not rather imply that the jury were to judge independently and fearlessly as to everything involved in the charge, and especially as to its intrinsic justice, and thereon give their decision whether the accused might be punished? The reason of the thing, no less than the historical celebrity of the events as securing the liberties of the people, and the veneration with which the trial by jury has continued to be regarded, notwithstanding its essence and vitality have been almost entirely extracted from it in practice, would settle the question, if other evidence had left the matter in doubt.

Besides, if his laws were to be authoritative with the jury, why should John indignantly refuse, as at first he did, to grant the charter on the ground that it deprived him of all power and left him only the name of a king? *He* evidently understood that the juries were to veto his laws and paralyze his power at discretion, by forming their own opinions as to the true character of the offences they were to try and the laws they were to be called on to enforce; and that "the king wills and commands" was to have no weight with them contrary to their own judgments of what was intrinsically right.

The barons and people having obtained by the charter all the liberties they had demanded of the king, it was further provided by the charter itself that twenty-five barons should be appointed by the barons out of their number to keep special vigilance in the kingdom and to see that the charter was observed, with authority to make war upon the king in case of its violation. The king also, by the charter, so far absolved all the people of the kingdom from their allegiance to him as to authorize and require them to swear to obey the twenty-five barons in case they should make war upon the king for infringement of the charter. It was then thought by the barons and people that something substantial had been done for the security of their liberties.

IV.

OBJECTIONS ANSWERED.

The following objections will be made to the doctrines and the evidence presented in the preceding chapters.

1. That it is a maxim of the law that the judges respond to the question of law and juries only to the question of fact.

The answer to this objection is that since Magna Carta judges have had more than six centuries in which to invent and promulgate pretended maxims to suit themselves, and this is one of them. Instead of expressing the law, it expresses nothing but the ambitious and lawless will of the judges themselves and of those whose instruments they are.

2. It will be asked: "Of what use are the justices, if the jurors judge both of law and fact?"

The answer is that they are of use, 1. To assist and enlighten the jurors, if they can, by their advice and information; such advice and information to be received only for what they may chance to be worth in the estimation of the jurors. 2. To do anything that may be necessary in regard to granting appeals and new trials.

3. It is said that it would be absurd that twelve ignorant men should have power to judge of the law, while justices learned in the law should be compelled to sit by and see the law decided erroneously.

One answer to this objection is that the powers of juries are not granted to them on the supposition that they know the law better than the justices, but on the ground that the justices are untrustworthy, that they are exposed to bribes, are fond of authority, and are also the dependent and subservient creatures of the legislature; and that to allow them to dictate the law would not only expose the rights of parties to be sold for money, but would be equivalent to surrendering all the rights of the people unreservedly into the hands of the legislature to be disposed of at its pleasure.

Legislators and judges are necessarily exposed to all the temptations of money, fame, and power to induce them to disregard justice in disputes and sell the rights, and violate the liberties, of the people. Jurors, on the other hand, are exposed to none of these temptations. They are not liable to bribery, for they are not known to the parties until they come into the jury box. They can rarely gain either fame, power, or money by giving erroneous decisions. Their offices are temporary, and they know that, when they shall have executed them, they must return to the people, to hold all their own rights in like subject to the liability of such judgments by their successors. The laws of human nature do not permit the supposition that twelve men, taken by lot from the mass of the people and acting under such circumstances, will all prove dishonest. It is a supposable case that they may not be sufficiently enlightened to know and do their whole duty in all cases whatsoever; but that they should all prove dishonest is not within the range of probability. A jury therefore insures to us (what no other court does) the first and indispensable requisite in a judicial tribunal,—integrity.

4. It is alleged that, if juries are allowed to judge of the law, they decide the law absolutely; that their decision must necessarily stand, be it right or wrong; and that this power of absolute decision would be dangerous in their hands by reason of their ignorance of the law.

One answer is that this power which juries have of judging of the law is not a

power of absolute decision in all cases. For example, it is a power to declare imperatively that a man's property, liberty, or life shall not be taken from him; but it is not a power to declare imperatively that they shall be taken from him.

Magna Carta does not provide that the judgments of the peers shall be executed, but only that no other than their judgments shall ever be executed, so far as to take a man's goods, rights, or person thereon.

A judgment of the peers may be reviewed and invalidated, and a new trial granted. So that practically a jury has no absolute power to take a man's goods, rights, or person. They have only an absolute veto upon their being taken by the government. The government is not bound to do everything that a jury may adjudge. It is only prohibited from doing anything unless a jury have first adjudged it to be done.

But it will perhaps be said that, if an erroneous judgment of one jury should be reaffirmed by another on a new trial, it must then be executed. But Magna Carta does not command even this (although it might perhaps have been reasonably safe for it to have done so, for if two juries unanimously affirm the same thing, after all the light and aid that judges and lawyers can afford them, that fact probably furnishes as strong a presumption in favor of the correctness of their opinion as can ordinarily be obtained in favor of a judgment by any measures of a practical character for the administration of justice). Still, there is nothing in Magna Carta that compels the execution of even a second judgment of a jury. The only injunction of Magna Carta upon the government as to what it shall do on this point is that it shall "do justice and right." But this leaves the government all power of determining what is justice and right, except that it shall not consider anything as justice and right unless it be something which a jury have sanctioned.

If the government had no alternative but to execute all judgments of a jury indiscriminately, the power of juries would unquestionably be dangerous; for there is no doubt that they may sometimes give hasty and erroneous judgments. But when it is considered that their judgments can be reviewed and new trials granted, this danger is, for all practical purposes, obviated.

If it be said that juries may successively give erroneous judgments, and that new trials cannot be granted indefinitely, the answer is that so far as Magna Carta is concerned there is nothing to prevent the granting of new trials indefinitely, if the judgments of juries are contrary to "justice and right." It does not require any judgment whatever to be executed unless it be concurred in by both court and jury.

Nevertheless, we may, for the sake of the argument, suppose the existence of a practical, if not legal, necessity for executing some judgment or other in cases where juries persist in disagreeing with the courts. In such cases, the principle of Magna Carta unquestionably is that the uniform judgments of successive juries shall prevail over the opinion of the court. And the reason of this principle is obvious: it is the will of the country, and not the will of the court, or the government, that must determine what laws shall be established and enforced; and the concurrent judgments of successive juries given in opposition to all the reasoning which judges and lawyers can offer to the contrary, must necessarily be presumed to be a truer exposition of the will of the country than are the opinions of judges.

But it may be said that, unless jurors submit to the control of the court in matters of law, they may disagree among themselves and never come to any judgment; and thus justice fail to be done.

Such a case is perhaps possible; but, if possible, it can occur but rarely, because, although one jury may disagree, a succession of juries are not likely to disagree. If such a thing should occur, it would almost certainly be owing to the attempt of the court to mislead them. It is hardly possible that any other cause should be adequate to produce such an effect, because justice comes very near to being a self-evident principle. The mind perceives it almost intuitively. If, in addition to this, the court be uniformly on the side of justice, it is not a reasonable supposition that a succession of juries should disagree about it. If, therefore, a succession of juries do disagree on the law of any case, the presumption is, not that justice fails of being done, but that injustice is prevented—that injustice which would be done if the opinion of the court were suffered to control the jury.

For the sake of the argument, however, it may be admitted to be possible that justice should sometimes fail of being done through disagreements of jurors notwithstanding all the light which judges and lawyers can throw upon the question in issue. If it be asked what provision the trial by jury makes for such cases, the answer is that it makes none. And justice must fail of being done from the want of its being made sufficiently intelligible.

Under the trial by jury, justice can never be done until that justice can be made intelligible or perceptible to the minds of all the jurors; or, at least, until it obtain the voluntary assent of all,—an assent which ought not to be given until the justice itself shall have become perceptible to all.

The principles of the trial by jury, then, are these:

1. That, in criminal cases, the accused is presumed innocent.
2. That, in civil cases, possession is presumptive proof of property.
3. That these presumptions shall be overcome in a court of justice only by evidence the sufficiency of which, and by law the justice of which, are satisfactory to the understanding and consciences of all the jurors.

These are the bases on which the trial by jury places the rights and liberties of every individual.

But some one will say: "If these are the principles of the trial by jury, it is plain that justice must often fail to be done." Admitting, for the sake of the argument, that this may be true, the compensation for it is that positive injustice will also often fail to be done; whereas otherwise it would be done frequently. The very precautions used to prevent injustice being done may often have the effect to prevent justice being done. But are we, therefore, to take no precautions against injustice? By no means, all will agree. The question then arises: Does the trial by jury, as here explained, involve such extreme and unnecessary precautions as to interpose unnecessary obstacles to the doing of justice? Men of different minds may very likely answer this question differently, according as they have more or less confidence in the wisdom and justice of legislators, the integrity and independence of judges, and the intelligence of jurors. This much, however, may be said in favor of these precautions,—that the history of the past, as well as our present experience, prove how much injustice may, and certainly will, be done continually and systematically for the want of these precautions. On the other hand, we have no such evidence of how much justice may fail to be done by reason of these precautions. We can determine the former point because the system is in full operation; but we cannot determine how much justice would fail to be done under the latter system, because we have, in modern times, had no experience of the use of the precautions themselves. In ancient times, when they were nominally in force, such was the tyranny of kings, and such the poverty, ignorance, and the inability of concert and resistance, on the part of the people, that the system had no full or fair operation. Nevertheless, under all these disadvantages, it impressed itself upon the understandings and imbedded itself in the hearts of the people so as no other system of civil liberty has ever done.

But this view of the two systems compares only the injustice done, and the justice omitted to be done, in the individual cases adjudged, without looking beyond them. And some persons might, on first thought, argue that, if justice failed of being done under the one system oftener than positive injustice were done under the other, the balance was in favor of the latter system. But such a weighing of the two systems against each other gives no true idea of their comparative merits or demerits; for possibly, in this view alone, the balance would not be very great in favor of either. To compare, or rather to contrast, the two we must consider that under the jury system the failures to do justice would be only rare and exceptional cases, and would be owing either to the intrinsic difficulty of the questions or to the fact that the parties had transacted their business in a manner unintelligible to the jury, and the effect would be confined to the parties interested in the particular suits. No permanent law would be established thereby destructive of the rights of the people in other like cases. But under the other system, whenever an unjust law is enacted by the legislature, and the judge imposes it upon the jury as authoritative, and they give a judgment in accordance therewith, the authority of the law is thereby established, and the whole people are thus brought under the yoke of that law; because they then understand that the law will be enforced against them in future, if they presume to exercise their rights or refuse to comply with the exactions of the law.

The difference, then, between the two systems is this: Under the one system, a jury, at distant intervals, would fail of enforcing justice in a dark and difficult case, or in consequence of the parties not having transacted their business in an intelligible manner; and the plaintiff would thus fail of obtaining what was rightfully due him. And there the matter would end—for evil, though not for good; for thenceforth parties, warned of the danger of losing their rights, would be careful to transact their business in a more clear manner. Under the other system,—the system of legislative and judicial authority,—positive injustice is not only done in every suit arising under unjust laws, but the rights of the whole people are struck down by the authority of the laws thus enforced, and a wide-sweeping injustice at once put in operation.

But there is another ample and conclusive answer to the argument that justice would often fail to be done, if jurors were allowed to be governed by their own consciences instead of the direction of the justices in matters of law. That answer is this:

Legitimate government can be formed only by the voluntary association of all who contribute to its support. As a voluntary association, it can have for its object only those things in which the members of the association are all agreed. If therefore there be any justice in regard to which all the parties to the government are not agreed, the objects of the association do not extend to it.

If any of the members wish more than this, if they claim to have acquired a more extended knowledge of justice than is common to all, and wish to have their discoveries carried into effect, in reference to themselves, they must either form a separate association for that purpose or be content to wait until they make their views more intelligible to the people at large. They cannot claim or expect that the whole people shall practise the folly of taking on trust their pretended superior knowledge and of committing blindly into their hands all their own interests, liberties, and rights, to be disposed of on principles the justness of which the people themselves cannot comprehend.

A government of the whole, therefore, must necessarily confine itself to the administration of such principles of law as all the people who contribute to the support of the government can comprehend and recognize. And it can be confined within those limits only by allowing the jurors, who represent all the parties to the compact, to judge of the law, and of the justice of the law, in all cases whatsoever. And if any justice be left undone under these circumstances, it is a justice for which the nature of the association does not provide and which the association does not undertake to do.

The people at large, the unlearned and common people, have certainly an indisputable right to associate for the establishment and maintenance of such a government as they themselves wish for the promotion of their own interests and the safety of their own rights without at the same time surrendering all their liberty into the hands of men who under the pretence of a superior and incomprehensible knowledge of justice may dispose of such liberty in a manner to suit their own dishonest purposes.

If a government were to be established and supported solely by that portion of the people who lay claim to superior knowledge, there would be some consistency in the saying that the common people should not be received as jurors, with power to judge of the justice of the laws. But so long as the whole people are presumed to be voluntary parties to the government, and voluntary contributors to its support, there is no consistency in refusing to any one of them more than to another the right to sit as juror, with full power to decide for himself whether any law that is proposed to be enforced in any particular case be within the objects of the association.

The conclusion, therefore, is that in a government formed by voluntary association, or on the theory of voluntary association and voluntary support, no law can rightfully be enforced by the association in its corporate capacity against the goods, rights, or person of individuals, except it be such as all the members of the association agree that it may enforce. To enforce any other law, to the extent of taking a man's goods, rights, or person, would be making some of the parties to the association accomplices in what they regard as acts of injustice. It would also be making them consent to what they regard as the destruction of their own rights. These are things which no legitimate system or theory of government can require of any of the parties to it.

The mode adopted by the trial by jury for ascertaining whether all the parties to the government do approve of a particular law is to take twelve men at random from the whole people and accept their unanimous decision as representing the opinions of the whole. Even this mode is not theoretically accurate, for theoretical accuracy would require that every man who was a party to the government should individually give his consent to the enforcement of the law in every separate case. But such a thing would be impossible in practice. The consent of twelve men is therefore taken instead, with the privilege of appeal and, in case of error found by the appeal court, a new trial to guard against possible mistakes. This system, it is assumed, will ascertain the sense of the whole people with sufficient accuracy for all practical purposes and with as much accuracy as is practicable without too great inconvenience and expense.

5. Another objection that will perhaps be made to allowing jurors to judge of the law and the justice of the law is that the law would be uncertain.

If it is meant that the law would be uncertain to the minds of the people at large, so that they would not know what the juries would sanction and what condemn, and would not therefore know practically what their own rights and liberties were under the law, the objection is thoroughly baseless and false. No system of law that was ever devised could be so entirely intelligible and certain to the minds of the people at large as this.

To be continued.

Liberty.

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"In abolishing rent and interest, the last vestiges of old-time slavery, the Revolution abolishes at one stroke the sword of the executioner, the seal of the magistrate, the club of the policeman, the gauge of the exciseman, the erasing-knife of the department clerk, all those insignia of Politics, which young Liberty grinds beneath her heel." — PROUDHON.

☞ The appearance in the editorial column of articles over other signatures than the editor's initial indicates that the editor approves their central purpose and general tenor, though he does not hold himself responsible for every phrase or word. But the appearance in other parts of the paper of articles by the same or other writers by no means indicates that he disapproves them in any respect, such disposition of them being governed largely by motives of convenience.

New Writers for Liberty.

Deputed some time ago to visit Europe in the interest of a corporation recently formed for the prosecution of a new literary enterprise, I went as I was bidden, and have now just reached home after a two months' absence. During that time I have scarcely seen an American newspaper, almost failing even to get a glimpse of Liberty, and now on my return I find myself in the midst of so many new eddies and currents and tides of opinion flowing towards or around Anarchism that I must spend a little time in studying them before I can discuss anything intelligently with my readers. One needs an occasional experience of this kind to impress him duly with the activity of thought and its sure progress in the right direction, even though, as in this case, the impression produce a temporary embarrassment no less than a gratification. In this issue, then, I can only greet my readers and make to them a welcome announcement. In Europe I secured the consent of Wordsworth Donisthorpe of London, formerly the editor of "Jus," and of John Henry Mackay of Zürich, the young German poet and novelist, whose latest work, "Sturm," has commanded so much admiration, to write each a monthly letter to Liberty. With Vilfredo Pareto as its Italian correspondent, this journal henceforth will be as ably represented abroad as at home, enjoying the services of a corps of writers unequalled by the staff of any organ of advanced opinion in the world. That thinkers all the world over are rapidly gravitating in the Anarchistic direction is the most unmistakable sign of the times.

Perhaps this is the most appropriate place to say that the paragraph regarding Mr. Donisthorpe which appeared in editorial type in the last number of Liberty is far from representing my own opinion of that gentleman. I think with Mr. Yarros that Mr. Donisthorpe's article on Grant Allen was unduly depreciative of that writer in its general characterization of him, and further that Mr. Donisthorpe is bound, under penalty of misapprehension of his views, to explain the apparent inconsistency pointed out by Mr. Yarros between his present defence of the Liberty and Property Defence League and his fierce assault upon it in the final editorials in "Jus." On the other hand, I think that Grant Allen's apology for State Socialism well deserves the ridicule poured upon it by Mr. Donisthorpe, and especially am I thoroughly convinced that, in so far as Mr. Yarros's paragraph tends to convey an impression of unworthy motive on the part of Mr. Donisthorpe, it does a grave injustice to one of whom I hold the opinion, first formed by study of his writings and now confirmed by personal acquaintance, that he is one of the frankest, most open-minded, most clear-headed, most honest, most fearless, and most uncompromising friends that Liberty possesses.

T.

Right and Social Utility.

Replying to my strictures, the editor of the Denver "Individualist" avows his surprise that Liberty and the "Workmen's Advocate," "which are supposed to be diametrically opposed to each other in philosophy, find common cause in their anxiety concerning" him. But there is really not the least occasion for surprise in this fact. The fundamental differences existing between Anarchists and Statists do not prevent their being at one in certain important questions of principle and fact. Modern thinkers are generally agnostics in religion and utilitarians in ethics; and from these standpoints natural right is seen to be a fiction and a delusion.

The "Individualist" protests that it uses the term natural right in a sense altogether distinct from that of the old French believers in a code of nature. Does it, then, endorse my position that civilization creates the rights of man? Is it prepared to subscribe to the following statement of the editor of Liberty, — namely, that "the chief influence in narrowing" the sphere of authority "is not so much the increasing exactness of the knowledge of what constitutes aggression as the growing conception that aggression is an evil to be avoided and that liberty is the condition of progress," that "the moment one abandons the idea that he was born to discover what is right and enforce it upon the rest of the world, he begins to feel an increasing disposition to let others alone," and that "the lesson that liberty is the mother of order, rather than an exact definition of aggression, is the essential condition of the development of Anarchism," or Individualism, while we must trust "to experience and the conclusions therefrom for the settlement of all doubtful cases"? Obviously the "Individualist" does not view things in this light, for it boasts of a "scientific yardstick" for the settlement of all disputes regarding men's rights and obligations, speaks of a "modern scientific conception of natural right," and in perfect good faith advises State Socialists to study "Social Statics" for the purpose of acquiring knowledge on the subject. Now the fact is that not only is there no scientific yardstick and none to be hoped for, but the absence of it cannot interfere with the sure and steady progress of liberty. And as to the conception of natural right promulgated in "Social Statics," there is nothing modern or scientific about it: to say nothing of the teleological assumptions which vitiate the entire argument, the exclusively deductive method employed is unreliable and unscientific. Those who value highly Spencer's "System of Philosophy" because, as it is justly claimed, it "differs from all its predecessors in being solidly based on the sciences of observation and induction," cannot consent to be held responsible for the exception to this rule which his early sociological speculations represent.

In saying this, I am not oblivious of the "Individualist's" reference to Mr. Spencer's essays on "Man *versus* the State." But, although ambiguity of expression and obscurity of intention frequently seem to justify the inference that Mr. Spencer virtually reiterates therein his old notion of natural right, I am convinced that a careful study and comparison would reveal the fact that, while old terms are used, new ideas are propounded, and that under the same words a new meaning is conveyed. He upholds indeed the natural right idea, but merely in contradistinction to that of government-created rights, fully recognizing, however, that social "utility enjoins the maintenance of individual rights," they being simply mutual "recognitions of claims which naturally originate from the individual desires of men who have to live in presence of one another." It is clear that Spencer does not sustain the "Individualist's" idea that natural rights are something independent of and anterior to civilization.

Does our contemporary now understand why I felt it necessary to warn it of the unreal nature of its basis? Between us and our authoritarian opponents the question is not one of belief or disbelief in natural right, but one of the wisdom or unwisdom of a certain policy from the standpoint of social order and development. We do not say to those who compel us to do, or to desist from doing, given things that they violate our natural rights; we show them that the policy of compulsion, when pursued for social ends, generates more evil than it mitigates and so defeats itself. We accuse them of violating the conditions of peaceful and progressive existence. In vain does the "Individualist" try to implicate Mr. Tucker in the conspiracy of spreading the notion of natural right; its own quotation distinctly affirms the contrary view. According to Mr. Tucker, "every man has a *natural* right to do whatsoever he will *and can*" (in other words, that in nature might is right), but it is "the fundamental principle of the science of society that stable and successful society is only possible where the rule is observed that every man may do whatsoever he will, provided he infringes not the equal right of any other man" (that is, that rights are purely social and spring from the principle of expediency). True, Mr. Tucker thought the modification slight and immaterial, but only in the sense of its practical significance. In so far as the practical struggle for liberty is concerned, there is little difference between those who arrive at their conclusion by induction from the data of history and present experience, and those who deduce their principles from arbitrary premises (except that the propaganda of the former is more effective). But theoretically they are as wide apart as fact and fantasy.

V. Y.

Liberty and the "First Principle."

The Denver "Individualist" asks why Liberty does not carry at its masthead the Spencerian "First Principle," and opines that "no more effective educational service" can be rendered "than to continuously keep before the readers the fundamental principle" which "covers every conceivable social act" and is "scientific." The "Individualist" refers to the principle that "every person has a natural right to do whatsoever he wills, provided in the doing thereof he infringes not the equal rights of any other person."

Frankly, then, we do not share our contemporary's enthusiasm and calmly deny its alleged scientific exactness. Undoubtedly the principle is true and important, and we endorse it; but we are not so near-sighted as not to be aware of the serious defects which utterly disqualify it for the function of an exact measure. As a motto it is more than worthless, lacking all the essential attributes of one, — explicitness, completeness, and distinctive power. Regarded as a protest against theories of government by divine appointment, its significance is plain enough, but it has absolutely no force when applied to those who base their governmental systems on principles of expediency and social happiness. I do not know of a single enlightened authoritarian who hesitates to admit it. State Socialists may, and do, sincerely accept it without ceasing to be what they are; prohibitionists, taxationists, and modifiers of all descriptions may without the slightest inconsistency swear by it.

Says Professor Huxley: "The higher the state of civilization, the more completely do the actions of one member of the social body influence all the rest, and the less possible is it for any one to do a wrong thing without interfering more or less with the freedom of all." Hence eternal vigilance is the price of social equilibrium. But what is a "wrong thing"? Suppose we all agree as to the justice of the "principle," while entirely at variance with respect to the definition of "a wrong," each proposing his own line of demarcation between liberty and invasion. Each wishes to interdict certain acts which he deems invasive of freedom, and protest against the attempt of others to proscribe conduct which in his eyes is justifiable. Assertions and counter-assertions are made without any hope of settling the dispute. The "principle" furnishes no light and no guidance. It neither defines authoritatively what constitutes invasion, nor does it provide a method of deciding between conflicting definitions. Unless the "Individualist" supplies these deficiencies, its banner will mean next to nothing.

In the interest of scientific exactness, then, Liberty adopts a motto which for lucidity, beauty, strength, and wholeness will ever remain unrivalled. "Liberty not the daughter, but the mother, of order" is a brilliant formula which sums up the whole philosophy of Individualism. It is fatal to authoritarianism, and

contains all the truth that sociological study has so far established. It teaches the great lesson that regulation and repression are to be avoided under any but the most extreme circumstances, and that it is wiser and safer and better for each and all to influence conduct through agencies other than force.

Zeal, confidence, and enthusiasm are characteristic of new converts, and the exhibition of these admirable qualities by our contemporary is delightful and inspiring. But it should learn to profit by the experience of maturer explorers in the domain of social science and reform; and should remember that what appear to it new and splendid discoveries may be to its seniors familiar and stale truisms of no particular merit or consequence. V. Y.

William Douglass O'Connor, of Massachusetts.

The man who, in 1866, magnificently signed himself "William Douglass O'Connor, of Massachusetts," at the foot of a defence of Walt Whitman that will live immortal in literary and human history, died, in May last, at Washington, with scarcely a ripple of general mention — an accusing figure of one whom this aberrant world, turned grey in its adoration of political "heroes," must, after the inhospitality of his own time, duly record and highly value and preserve. It seems imposed upon us to prophesy that the race cannot let such a man disappear into permanent oblivion. Our age is prolific of cheap statesmanship, — of magnified pigmies who stalk as saviors of society and leaders of human herds. But these are not the glory — these are the shame — of our public life; they are excrescences indicative of social bad blood, and significant of the need, as they are of the certainty, of radical purification. Who but has often gone sick at heart from the contemplation of our "public" life — the life of government and of men who acquire governmental honors: powers acquired and sustained, as too often is known and frequently is acknowledged, on the back of modest worth and ungrudging, though obscured, valor? Think of how O'Connor contrasts with all this. Think of his long labors in the life-saving service — an acknowledged fealty in which he took a broad and liberal pride. Think of his entrance upon such a career from a foreground of great literary acquisition and promise, and his halting not in one muscle under the burdens imposed. Think of his literary courage itself — his heroic battle for Whitman against odds however large and impudent; his rich Elizabethan knowledge, always so sacredly maintained and utilized; his power of speech, too remarkable to be described to anyone who has failed his actual bodily presence; his distinctive additions to American ideals of life, every pore of his vast information breathing aromas of a new civilization. Picture, if you can, such a man, with a pen never trifling in its brilliancy, and an impetuosity never mistaken in its aim, with the divine gift of *advocate* crowning all else, lost on the sundering shores of our modern world! A doctor, a writer, a man of science, an artist, — any of these, even if of an average calibre, — serves an apprenticeship of half a generation before given a place in the line of deference. How long the tutelage of a *political* "leader?" His fame is but the rushlight of an hour, — yet, while it burns, is sworn to as sun of suns, and when extinguished, the place of its disappearance is for the moment the eye-center of his generation. But such a force as O'Connor's is not waste: swept up on spiritually desert shores, by and by, in the light of more liberal knowledge and of keener men, this seagift out of the vast must be revealed and cherished. Some one must at last come to whom revelation belongs. The stories, then, woven out of a gentle and fervid imagination; the profound and palpitating studies of literary epochs; the inimitable letters sent throbbingly out of the heart of a consecrated literary integrity; above all, the great Whitman deliverances, elemental in abysmic and mountainous power, — will be seen for what they are. Then men will discover that they had passed by little noted in his life a man wise in many generations, whose espousal of freedom meant something all-around, embracing the individual as entitled on every side to an equal selfhood.

O'Connor was born in 1832. Coming of English and Irish stock, there were combined in him racial nobilities and powers from each side. His tastes were always high — first towards art, of the study of which there was a forced abandonment, then in literary directions. His great gift of speech was recognized even in his youth. He wrote poems, stories, and one novel, "Harrington," the last dealing with anti-slavery. He participated in the editorship of several newspapers at different times, the Philadelphia "Evening Post" and the Boston "Commonwealth" notably. One of his remarkable short stories, "The Ghost," is still current. "Hamlet's Note-Book," and the recently published "Mr. Donnelly's Reviewers," are weighty and incisive demonstrations for Bacon in the controversy over the Shaksperean plays. It is known among his friends that, had he lived, he would have discussed this subject more extensively and elaborately. O'Connor twice braved the literary traditionists — first, in his rally for Whitman, which is now justified in every taste and tendency of thinking and reading men; then in the Baconian controversy, which yet survives as involving an unsettled problem. He pulsed naturally with the vein of the antagonist. He had a keen eye for detecting pretence, and a vivid and willing tongue and pen with which to circulate his discoveries. Governments, authors, traditions, religious or secular, had good cause to realize him as a master of honest fence. I say and mean *honest* fence: O'Connor always comprehended that disputatiousness was in itself not a noble invitation, and that every true controversialist is hospitable. He was faithful to Whitman to the last. They had long been fellow-clerks and fellowmen together at Washington, and in the main emergencies held common cause. Whitman tells me O'Connor measured Lincoln largely from the first. Never a man who more loved books; yet never a man more ready to puncture book-pretenders! I shall not forget his description of a congressional debate, in which a southern senator suggested rather to burn a large part of the national collection of books than provide enlarged accommodations for their security. Where was the politician who would not start with burning all the *good* books? O'Connor's touch was keen. Essentially the scholar, O'Connor was never reclusive, and never bathed in past streams but to come refreshed to the modern contingencies. He worked his scholarship in as the blood of grand American ideals. He could not despair, — never voyaged deploringly; even in his last sickness was heroically responsive to light and joy and confidence and humor. He had a splendid body: head, eye, arm, — all were a part of the man we know in "The Good Gray Poet"; while the music of his speech, even in the later days of oppression and huskiness, was ample and sustained. He was wont to say, aptly, that the elder Booth deluged his audiences with electricity. No man came near O'Connor but to be deluged with streams of a marvellous personality. O'Connor gave forth generously of a faith in man, — in the efficacy of man's freedom. He believed in no obstructive forces. He saw in nature limits, and these natural limits alone must be observed. Because he believed so much in a society that believes so little, and proved in himself what he prophesied for the race, he cannot be forgotten. I gladly put in this word for a man I have both loved and admired.

HORACE L. TRAUBEL.

Monopoly and Legislation.

Professor Ely, in the "North American Review," indirectly attempts to answer the question which Liberty recently addressed to the Nationalists. He takes the telegraph monopoly, and endeavors to show that only under State management can the evils of this service be remedied, giving at the same time certain reasons why the government must have the whole field to itself. He discriminates between private monopoly and public monopoly, and says of the former:

> On the one hand, monopoly attempts to prevent unjust legislation by abundant use of money, and indirectly by the bestowal of special favors and privileges, such as passes on railroads, opportunities to buy stock, or presents of stock, freight rebates, etc. On the other hand, unscrupulous legislators bring in bills attacking corporations purposely to be bought off, so that otherwise upright men are almost forced to use money improperly to protect themselves and those they represent. Between the two currents, political life becomes demoralized, as is well known; and the chief cause is the private monopoly. Corruption inheres in its very nature, in its very essence. It is a bad thing, and must remain such. But why dwell on this? Does not one of the most powerful, and in some respects one of the most admirable, corporations in the United States maintain, as a regular part of its business, a corruption bureau to manipulate or purchase legislatures? Do not street car companies perpetually interfere in politics? Is there not a prominent city in the West in which both Republican and Democratic members of the council are nominated by a private street car company? Do not lobbies supported by corporations steal bills from the House and Senate flies?

Now, I would naturally have supposed that all these evils resulted, not from private monopoly primarily, but from government. Why all this bribery and corruption, if not for the purpose of buying off competition and obtaining special privileges? If the telegraph were a natural monopoly, there would be no need of buying the "public servants." Why does the street car company concern itself in nominating members of the council, if not simply because those members, when elected, grant them charters and have the power to shut out competitors and rivals? Why was Blaine given stocks "to put where they would do most good," if not for lobbying services?

The amount spent by these chartered monopolies in buying off what Professor Ely calls unjust legislation is exceedingly small compared with the amount which they spend in creating corrupt legislation. Did not Jay Gould say that "it is cheaper to buy a new legislature than to bribe an obstinate old one"?

If private monopoly is bad, how much worse must be the creators of these monopolies? Then why not get rid of the legislators who sit in the halls of monopoly in the interests of monopolists?

A. H. SIMPSON.

Social Laws.

To the Editor of Liberty:

I read with a good deal of interest the editorial in the issue of Liberty of July 20, entitled "The Basis of Individualism." In that editorial you make use of the following language: "Civilization does not modify men's natural rights; it creates them."

What do you mean by that expression? You do not claim that the law of gravitation was ever created, do you? You could go no farther than to say that it was discovered, and that, so far as our knowledge extends, it always existed.

Now can we not by a parity of reason apply the same logic to the laws which govern or regulate society, and say that these laws are only discoverable through the intelligence of the individuals who compose the social body, and that they were never created? BYRON MILLETT.

No, it would not be correct to say that individuals only "discover" the laws of society. Society grows, and its laws are not something fixed and immutable. Society is not today what it was in the days of Plato, whose "ideal" society rested on slavery, and the society of civilized countries is not the same as the society of the semi-civilized. Spencer tells us that "the welfare of society and the justice of its arrangements are at bottom dependent on the character of its members"; hence changes in the laws of society follow every change in the mental and moral nature of the units of society.

To be sure, we do speak of the laws and science of society, but we mean the society which is present to us only as an ideal. We are most of us agreed on what the future society should be, but we are not consistent, logical, and clear-sighted enough to unify and harmonize our separate ideas and to banish all incongruous and discordant elements from our construction of the ideal society. It is generally held now that society should be so constituted as to promote liberty and perfect individuality, but it is difficult to estimate and calculate the probable influence of any single measure advocated on those great ends, and this is the prolific source of disputes. But it is admitted on all hands that the individual must be allowed, must have the "right," to do anything which tends to realize liberty and individuality in the society of which he is a part; while as to actions directly injurious to others,

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An Anarchistic King.

[Boston Post.]

There died lately in a small town called Plattsboro, situated in the southern part of Green county, Iowa, a blacksmith named Chilson. He was born in Columbia county, New York, about the year 1840, and some ten years later his father, a carpenter in straitened circumstances, emigrated to Ohio, and thence, in 1855, to Plattsboro, Iowa, where he settled down for the remainder of his life. Thomas was the oldest of a large family of children. He received the common school education of the time, and at the age of fifteen was apprenticed to a blacksmith. As a young man, he was remarkable for a sagacity beyond his years, as well as for strength and agility, and although he is described as having been somewhat hot-tempered, he nevertheless possessed such self-control and so keen a sense of justice that he never made an enemy. Marrying early and working hard at his trade, he soon established a reputation for forty miles around as a faithful and skilful farrier, and became the owner of a good house when he was thirty years old. Soon after happened a signal misfortune. One Thanksgiving Day, while performing some feat of strength, he fell upon his back, and, striking against an iron post, received so severe an injury to his spine that he was never able to walk a step thereafter. To a man of his active habits this was of course an almost intolerable affliction, and yet it proved in the event to be a blessing to his neighbors, and through them to him. Out of pity and friendship, the crippled blacksmith was elected shortly to such town and county offices as were available, and in this way he came to be known as an official person. Moreover, he discharged these duties so well that his fellow-townsmen and the farmers around were led to employ him in a more important capacity. Gradually it became a custom to submit matters in dispute to the decision of Thomas Chilson. Little by little the community discovered him to be a man of wonderful penetration and judgment, and as to his perfect integrity, of that they had long been assured. Consequently, instead of going to law, they went to Chilson, the process being a great deal cheaper—costing nothing, in fact—and the results being much more satisfactory.

It is stated that for many years prior to his death it was not uncommon to see in front of the modest dwelling occupied by the former blacksmith that motley collection of vehicles which is a familiar spectacle in the vicinity of a rural Court House. Inside, gathered about the cripple's chair, were the litigants, their respective witnesses, and as many curious spectators as were able to get within hearing distance. An ordinary man in this situation, without rules of evidence or precedents to guide him, would be lost in a jungle of hearsay testimony and unsupported assertions, but Chilson had that intuitive knowledge of human nature (strengthened, but not produced, by experience) which enables its possessor to decide whether or not a witness is speaking the truth. His judgments were almost invariably heeded, and, although once or twice the suitor against whom he decided sought to have the same case tried in the ordinary court, yet the feeling of the community was so strong against such a proceeding that it was never repeated.

But it was not only as a referee that Chilson's weight was felt; in all town matters his voice was very nearly conclusive. No matter what the seeming strength of the arguments on the other side, or the vehemence with which they had been urged, when the crippled blacksmith's chair was wheeled into view, and he had expressed in modest but convincing words a contrary opinion, it was rarely if ever the case that the meeting failed to assent. There came at last a crucial test of his authority. A man had been killed and his slayer was caught and imprisoned. Strange as it may seem, both the friends of the dead man and of the accused united in a desire that the case should be decided by Thomas Chilson, and a proposal to this effect was seriously made to the county authorities, but of course it could not be entertained by them.

The Moralists' Fatal Error.

[H. Brewester.]

In all the attempts of moralists, I see this fatal error: a belief in the superior worth of some one state of mind in which we are supposed to have a true perception of reality. The aspect thus seized must be abided by, and our thoughts and actions subordinated accordingly. Whatever tends to question it must be thrown aside as frivolity, or stamped down as sin—not in ourselves alone, but also in others. That which at first was pure delight in us, a gift of grace, what have we made of it? A yoke for our own necks, and stocks for other men's feet. This is the misdeed of morality,—that it takes the innocent pleasure we may have in our own ways, and replaces it by a duty that must rule when the pleasure which was the sign of life is gone; must rule at home and abroad. After which we look round, and marvel to find the world joyless and egotistical. And we try to warm up in ourselves and in others the first day's enthusiasm; we expatiate on the sanctity of the law, in hopes that its defence in common will draw us nearer one to another. Not so. What we may thus stir up is a superficial emotion that creates in our imagination a bond of sympathy between us and our brothers, but leaves us as far apart as ever in our practical impulses. We fall into each other's arms while the sound of the church organ lasts, but as soon as it expires we are ready to condemn each other on appearances, and strictly by the letter of the law. The taint of egotism lies farther back—in our misconception of reality. The day we invested it with a character of permanence, and resolved to abide by it such as it appeared to us then, we were cut off from experience. It matters little that we should all agree in extolling the same ideal. There is no flesh and blood in our agreement.

I will give you an example, one of a thousand, the first that occurs to my mind. If we were asked to name some modern writings in which the teachings of morality are ably set forth, we could probably do no better than to point to an author who has blended them with pictures of life admirable for their vividness and wit. You will recollect that one of George Eliot's novels is the story of a pretty village girl who loves a man above her in rank, forgets her principles, bears a child, and then, overcome with shame, terrified at her impending disgrace, kills or abandons the child, is convicted and condemned to death. What are the moral reflections it suggests to the writer? That such are the awful consequences of sin; that we should beware of bringing such misery on a fellow-creature, and that we must all live as duty bids, for the end of lust is shame.

Now, I have no doubt that after closing the book some young girl may shudder, and take into more serious consideration than before the fact that life is not solely made up of ribbons and kisses. She may feel that there is something terribly serious in it, and attend church the next Sunday with more gravity; she may feel more in communion with those who kneel there around her. Better still, she may form some good resolution, and set to her household work with more spirit; be more cheerful and obliging.

Possibly, too, some young man may resolve, on closing the volume, never to be the first to tempt a girl from the right way; and he may like himself and, indirectly, his neighbors also, all the better for his good intentions.

I see in both cases that the imagination has been stirred, the wish aroused to live up to a decorous standard, and a certain sympathy renewed for the commonly accepted ideal of the community.

But what working power is there in these good resolutions? How long will they last? We know that hell is paved with them. It is a mere sentimental play that we believe in till we are caught in one of the streams that roll men as drops of water in their statistical tides. There doubtless may be in the community a certain number of persons whose instincts and destinies find in the accepted ideal a proper flower of expression. And if they looked upon it thus, no harm would come from it. But they see in it the root of their virtues; and by education, by predication, by law, they seek to enforce it upon all. The factitious ideal thus imposed upon minds that do not naturally produce it, can no more rule than a theatre king can put down a revolution in the country. The passions and moods that govern us stretch very far back; to change them we should have to change half the order of the universe, beginning by the habits of our ancestors for generations past; we should have to know the secrets of innumerable crucibles at work for thousands of years on atoms that have filtered from as far as the world extends. Are the inexorable facts and the outbursts of force thus generated to be conjured away by a gesture of the paper-crowned majesty who struts before the all he can do is to persuade us that, if we do not obey him, footlights of our imagination? He has no power for this; we ought to do so, and that if our neighbors do not obey him, we must chastise them. He blinds us to the recognition of any other ideal but that of which he is a counterfeit, and induces us to commit real crimes in order to punish imaginary offences. It does not occur to our author that the guilty ones of the story are neither the father of the child nor the poor mother driven mad by fright, but those whose pitiless reproval she feared; and, more properly still, the teachers who instilled into their minds the notions of morality.

My ideal, whatever it may be, has not business to interfere with my neighbor's. Nor is the spiritual life of the community to be sought in the conformity of all to the same type; it must be sought in mutual intelligence. Goodness in our relations with others consists in discovering with them and, if need be, for them, the purity of the design hidden or gradually fashioning itself in them. True sympathy is not reciprocal congratulation on a common ideal, together with the good will of like loves like; true sympathy is fine perception. Stand up, Hetty: we understand that you find yourself in circumstances that will demand from you new qualities of character and efforts of intelligence to which you have not been trained. We fear the task may prove a hard one, but as far as our assistance can help you, you have it. Pass the baby round; it shall dance upon our knees.

This is no fancy picture of an impossible community.

There are many peaceful villages and alpine hamlets where you will find that, though no one makes the above speech, all act up to it. The inhabitants have fully as much sense of the ideal as English villagers, and their homes and their songs show it. You will see there unmarried mothers whom no one, friend, relation, or stranger, thinks of despising. They are judged by their courage and their kindness, by the sweetness of their temper, their will to work, and their gift of affection. They are judged by the rule of Is, and not by the rule of Ought. "We thought that good girls met with no such accident, but it appears they do; therefore, we were wrong. That is all there is of it. If any one tries to teach us to the contrary, we shall know that he is more satisfied with his own ideas than desirous of looking round him to improve them."

Now where is the infanticide and the shame and the sin? They were all the work of the moralist. Let him be responsible for them.

The True Basis of Individualism.

In No. 148, Comrade Yarros, with whose logic I usually agree, asserts: "The true basis of individualism is not any natural individual right, for nature knows nought but might, but a broad utilitarianism, social expediency." Now I have nothing to say against "a broad utilitarianism," or "social expediency," but, with all respect for Mr. Yarros, I consider this statement of our basis as misleading. It has always seemed to me only a piece of common sense to look for the basis of individualism in the individual himself, as far back as might be, and I found it, to my own satisfaction at least, where I looked for it. The true basis of individualism is egoism, self-benefit,—the natural right, or rightness, of every man's attending solely to his own good. That, where there is sufficient knowledge and mental development, the exercise of egoism will lead naturally to a broad utilitarianism and social expediency I have always claimed, but that is very far from admitting their basic importance.

My happiness is the basic thing, and happiness is a natural right; that is to say, in the very nature of my organism it is so arranged that every thing goes right only when happy, only when in a state of normal gratification. And my natural right is not in the least dependent upon my natural might; I have the natural might to cut off a forefinger, but it would very naturally be wrong for me to do so; it is naturally right for me to have all my teeth, but I have lost some, and it is naturally impossible for me to get them back.

That which the "laws" of nature require us to do, the actual conditions of nature too frequently forbid.

Does "nature know nought but might"? Effort, struggle, labor, might, for nothing at all, is foolishness, and nature is not such a fool. She uses her might for a purpose, and therefore knows something before and after might. Preservation of life, development, pleasure, in the service of these she uses her might, and whatsoever makes for these is right.

Here is natural right—that which is beneficial to the individual; here is our basis. Shall we then say: "Might is right"? In a certain sense yes, and in another sense no. Might is perhaps right in intention, *i. e.*, always intended to benefit the user; it is often by reason of ignorance very wrong in its results. A man slew his best friend by mistake, supposing him his deadliest enemy. He was acquitted of wrong as one who acted in self-defence, and his own conscience was clear. He acted in self-defence, and it is right to act in self-defence, therefore he did right. Did he not also do wrong? Assuredly it is wrong to make mistakes; from the standpoint of the slain it was wrong to be slain, and from the standpoint of the slayer it was wrong to kill one's friend.

It becomes evident then that there are natural rights and natural wrongs (that is, that there are intentions, acts, and relations that in the course of nature benefit self, and intentions, acts, and relations that in the course of nature injure self), and also that the same act may at the same time be both right and wrong. To a certain extent a given relation may be beneficial, and beyond that an injury. Recognizing this, we have all learned that good and evil are comparative terms, and the habit has become world-wide of calling those things that benefit more than they injure right and good, and thoes that injure more than they benefit wrong and evil. When the moralist speaks of right he always means, whether he is conscious of it or not, that which, in his opinion, in the long run and the wide circle, will return the most pleasure. It seems to me that all the varying uses of the word right clearly base themselves here.

Observe. To many those things only are right that are decreed by God. Everything believed to have the divine sanction is called right. To the theological mind God is the fountain of benefits. To antagonize God is, in the long run and the wide circle, to bring ruin upon self, to obey is in the greatest possible degree to benefit self. Therefore the decrees of God are right, and obedience to them right. Could anything be more egoistic? And even such monstrous doctrines as predestination and infant damnation were applauded from fear of the divine vengeance, which is egoism in another form, or from a persuasion that those doctrines were mysteries which would finally be revealed as human benefits.

The use of the term right as synonymous with privilege evidently had a similar origin. Men did not look to scientific relations of cause and effect; they took theological views of everything. Whatever God did or permitted was right, but the devil gave him the slip pretty often, and then things were done that were wrong. How the devil he did

this was a knotty question, but anyway God was for men, and the devil man's enemy, therefore God was good, and Satan bad. Rulers being "ordained of God" (it was very unsafe to doubt this), the agents and sub-agents of his will, having "a divine right," it followed that all their privileges were divinely right, and beneficial to everybody. To rebel was to rebel against God, to ultimately ruin self, and, on the other hand, to do what God through the ruler permitted could not be wrong, however it might look to the natural man; at any rate, it was the safest and most fashionable to call it right. Therefore all privileges become *rights*. And the old idea of self-benefit through it all.

Read the second paragraph of the Declaration of Independence, substituting the word benefit or benefits for the words right and rights wherever they occur, and it will be found that the author's idea is fully preserved. A Deist, he reasoned from nature to God,—that is, whatever he found right or beneficial in nature he referred to God as its author. Believing in a deity who could do no wrong, also believing, as we do, in equal liberty as beneficial, it was to him self-evident that men were equal by creative intent. To substitute privileges, or any such term signifying might, for "rights," will not thus express his meaning. This is clearly shown by his reference to "inalienable rights." He did not intend to convey the idea that "life, liberty, and the pursuit of happiness," were mere arbitrary privileges, conferred by God or the government, or he would not have called them "inalienable."

As privileges and powers he knew they were continually being alienated, but as "rights" they were in his view inalienable—that is, it would always be beneficial to the individual to live, be free, and seek happiness, whether able to do so or not. A man might voluntarily become a slave, but he could not thereby alienate his right to freedom, could not alter the fact that it would be better to be free.

Even the most useful hand, because the most beneficial, is called the right hand. And so I might go on indefinitely, but I have illustrated sufficiently, I trust, to prove my point.

Thus it appears that in nature all acts and relations are to some extent beneficial, somewhat right, but to avoid inconveniently nice distinctions human language has divided all into two classes:

Right, Good = More beneficial than injurious
Wrong, Evil = More injurious than beneficial

and this from the standpoint of the speaker.

While by *right*, in a special sense, have always been meant those conditions, actions, or privileges supposed to be superlatively beneficial, such as liberty, security, labor, compensation, suffrage, etc. Finding that humanity has based its entire nomenclature of right on an egoistic basis, I, as an egoist, make haste to adopt it, and dissent sharply from those few philosophers who assert "might is right," meaning thereby that whatever nature permits is right. In view of the basic meaning of the word, and of the fact that nature permits all sorts of self-injury, I deny it.

Nothing is clearer to me than that those who use "nature-right" as a watchword, mean, and have always meant, those conditions and actions which in the very nature of man and his relations are in the highest degree necessary to his development, perfection, and happiness as an individual.

Our basis is the natural individual right to happiness; our method, the natural social right of equal-freedom. Therefore we are in our desires, actions, hopes, altogether based on natural right, and the "individualist" need not hasten to haul down its standard.

How can Comrade Yarros say, "there is nothing whatever in nature to interdict such a policy" as the endeavor of one man to tyrannize over another? If that be so, let him rest assured he is a fool for interdicting it himself. Is, then, our protest against tyranny based upon supernaturalism? Are we left without an inch of solid ground to stand on?

Into such folly does the advocacy of might as right lead us. Nature indeed permits tyranny between man and man, but she none the less forbids it by all the pains and penalties of individual undevelopment and social disorder. Nor do I agree that "all" men's "rights are natural social rights" (if they are, they are confessedly natural rights), but deny that there is "no liberty without society," and maintain that, if I were the only man living, I would still have rights, could still be free. My social rights are only a part of my rights, and include all those interrelations of conduct between myself and my fellows necessary to secure my greatest social benefit. Outside of these lie all my right relations to self, and to that nature which is not human. Whether in or out of society, for instance, my right of free access to nature's materials remains unchanged. Does Mr. Yarros really believe that: "Civilization does not modify men's natural rights; it creates them. In the absence of civil society individual rights are inconceivable"? To me such a statement appears absurd, and worse. Which, then, was first, civilization, or primitive nature? Was it not the working out of the perception of natural rights by the primitive savage that produced the little civilization that we have? Because the primitive savage will not associate with us, have we a right to outrage him? Is it inconceivable that he has a right to his life, liberty, happiness? As it would not be difficult to prove that we have as yet no "civil society" worthy of the name, is it inconceivable that we have rights,—are they still uncreated?

Now the truth is that natural rights are not created at all, but are inherent in the nature of things—individual rights in the nature of the individual, social rights in the nature of society; and nature is self-existent.

It is true, however, that, as a man alone could not be invaded by other men, our contention as Anarchists is chiefly for the natural social right of equal liberty, but our demand for that is pronounced altogether by our belief that its realization will in the highest degree satisfy our natural individual right to a perfect personality—which is our true basis.

"The hope and strength of our cause lies in the great verity that, as men gain in enlightenment and refinement, they come to realize more and more that not stern military discipline, but trust in the spontaneous unfoldment of individuality, not force and repression, but liberty and sympathy, should be depended upon for the working out of a harmonious social order." True, O prophet!—and that because "liberty and sympathy" are natural rights. If humanity had to wait until its "harmonious social order" had "created" its liberty and sympathy, in order that its liberty and sympathy could work out its harmonious social order, it would be in a very dizzy and hopeless condition of chasing its own tail.

J. WM. LLOYD.

A Word to Mr. Lloyd.

Of course I do not like to be misunderstood by anybody, and especially by those for whom I have learned to entertain a high respect; but I must decline to discuss any of the questions touched upon in the foregoing with Mr. Lloyd, and resign myself to the sad fate of remaining in his eyes a man of absurd and foolish opinions. I can only consent to argue with one who pays some attention to current sociological and ethical controversies and who employs language and methods of reasoning that are in vogue among his thinking contemporaries. Mr. Lloyd is intensely original, and is supremely independent of facts, evolving his ideas of others' sayings and doings out of his inner consciousness, instead of gaining his knowledge of them by studying and observing them. When he sees a statement in print, he takes no pains to get at the real meaning of the author, but interprets and defines it to suit himself, and then blandly proceeds to assail or applaud his own creations. In this case, instead of first informing himself of the precise nature of the issue between myself and the "Individualist," Mr. Lloyd assumes that the latter, in speaking of natural rights, means just what Mr. Lloyd thinks it ought to mean, and "sharply" dissents from my criticism of it. Further, an acquaintance with the history of political and social science leads to conclusions exactly opposite to what is so "clear" to Mr. Lloyd. I cannot waste time on a man who will not consult historical or other data, and whose use of language is peculiar to himself. As to Mr. Lloyd's own ideas on the subject of "rights," all I can say is that it will be necessary for him not to mix the political aspect with either the ethical or the formal juridical one (if indeed he is not hopelessly confused) before he can expect to be understood.

V. Y.

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Continued from page 5.

it is obviously absurd for anybody to claim any right of performing them.

If, however, as I suspect, the word "creates" somewhat troubles Mr. Millett, I wish to remind him that "to create" does not necessarily mean to produce something out of nothing, but may mean to give form, shape, completeness, and definiteness to something preexisting. In the "natural" man, as well as in lower animals, there are germs of both intelligence and love; and, according to the Darwinian view, it is by virtue of a higher development of these that man occupies his exalted position in the animate world.

V. Y.

State Socialist Absurdities.

The editor *pro tem.* of the "Workmen's Advocate" is a serious-minded and scholarly gentleman, who usually shows some information in dealing with subjects of current interest. Therefore it is a disappointment to discover that, prior to the appearance of a short article of mine on "Anarchistic Socialism" in the "Twentieth Century," such notions of Anarchism as he had were gathered from the characteristic misstatements of it in the "Workmen's Advocate." In his issue of August 17, he announces my "remarkable conversion" and "unconditional surrender" to the Socialism of his school, referring to the following expressions in the aforesaid article: "The Anarchists are emphatically in favor of association and coöperation, and liberty, though a good end in itself, is from the economic standpoint only a means to an end, that end being association and combination. They are fully aware that most of the present blessings are due to coöperation, and that the coming social system will have 'association' for its watchword." Certainly no one at all familiar with Anarchism, and especially no one who has followed Liberty's efforts, will see in the passage anything new or startling. It only repeats a familiar truth, — a truth always emphasized and never lost sight of by any Anarchist that I know of. I will, if called upon, engage to prove that every issue of Liberty contained statements of a similar import and significance. But this is identical with the teaching of the Collectivist, we are told. State Socialism is an invention of my own, and the charge that our opponents seek to establish a politico-industrial despotism is false. I am truly sorry to expose the editor's ignorance of the Socialism which the "Party" advocates, but it is easy to show that facts belie him. Was not "Looking Backward" — the Nationalists' Bible — officially recommended as a faithful picture of the "cooperative commonwealth" which the Socialists work for? Do not American Socialists claim that the Nationalists are Socialists in everything but the name? To these questions affirmative answers can hardly fail to be given. But if so, our accusation is fully sustained. For I take it that none save sentimental imbeciles, who, in the words of the poet, are so empty that, if e'er there be in nature found the least vacuity, 'twill be in them, can deny that Bellamy's "national organization" would be a most intolerable "politico-industrial despotism in which all individuality, initiative, aptitude, inclination, and originality will be suppressed." And in this opinion I am the more decided since William Morris and Hubert Bland, the ablest Socialist writers and editors in England, openly confessed their strong aversion to the puerile Socialism of that mediocre novelist.

Mr. A. Cahan writes a long letter to the "Workmen's Advocate" in reply to my remarks anent his criticism of my "Question," but does not succeed in making a single new point. He simply reiterates his conviction that State Socialists are rightfully entitled to an absolute monopoly in the supply of salvation medicine. If Socialists, because they sincerely *think* they have discovered the sole remedy for social evil, are justified in demanding "unrestrained play" and dutiful submission of those who cannot share their faith and hope, why may not sincere Catholics compel us to go for our religion to the pope, or prohibitionists and vegetarians control our diet? No amount of pretentious and pompous talk will blind people to the fact that Socialists are ordinary mortals, not specially insured against blunders, errors, and follies; and the more loudly they boast and sing of their own virtues and proclaim their "scientific" rights to rule others, the less attention will they receive and the stronger will the suspicion of incompetency become against them. In justice to the Socialists, however, it must be stated that many of them are emancipating themselves from the narrow orthodoxy of Mr. Cahan. What he impatiently dismisses as utterly absurd and impossible, another State Socialist, Zeno, holds to be perfectly possible and desirable. Not only does he deem my question "fair," but assures us that "many Socialists would like to see the State compete with corporations" and "simply assume its duties and ignore competition." He even advises that "the platform should not be so construed as to demand that corporations be forbidden to continue when the State takes up one of its proper functions." And Kirkup, in his "Inquiry," explicitly denies that there is any ground for Mr. Cahan's "assumption that Socialism must demand a rigid and arbitrary adherence to the type," and affirms that "in any future order there will and should be many varieties of form." As it would be cruelty to further reveal Mr. Cahan's weakness, I desist. It has long been my opinion that nothing is more certain to open the eyes of a State Socialist and cure him of his superstitions than a diligent study of the writings of other State Socialists. I would advise Mr. Cahan to read Zeno and Kirkup, and Zeno to read Mr. Cahan. The prescription may be distasteful, but it is wholesome.

V. Y.

Another Famous Anarchist.

[Ibsen to Brandes.]

The State is the curse of the individual. How was the municipal strength of Prussia purchased? By the absorption of the individual into the political and geographical idea. The bar-keeper makes the best soldier. The State must be abolished. In a revolution that would bring about so desirable a consummation, I should gladly take part. Undermine the idea of the commonwealth, set up spontaneity and spiritual kinship as the sole determining points in a union, and there will be attained the beginning of a freedom that is of some value. Changes in the form of government are nothing else than different degrees of trifling, a little more or a little less absurd folly. The State has its root in time; it will attain its summit in time. Greater things than it will fall. All existing forms of religion will pass away. Neither moral conceptions nor art forms have an eternity before them. To how much, after all, is it our duty to hold fast? Who will vouch for me that two and two do not make five on Jupiter? What is really needed is a revolt in the human spirit.

The Flower of Philosophy.

[Schopenhauer.]

I found a wild flower one day, and, wondering at its beauty and perfection in every part, cried: "This lovely flower, then, and myriads of others, bloom unregarded, oftentimes unseen, by human eye." I seemed to hear the flower reply: "Thou fool! thinkest thou I bloom in order to be seen? I bloom for myself, not for others, because it pleases me. Therein, because I exist, is my joy and contentment."

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